



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

09-000-8420

JUN 30 2009

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

The Honorable Jim Webb  
United States Senate  
Washington, D.C. 20510

Dear Senator Webb:

In June, the U.S. Environmental Protection Agency (EPA) will announce the winners of the 2009 Presidential Green Chemistry Challenge Awards. We are pleased to inform you that Eastman Chemical Company, located in nearby Kingsport, Tennessee, will receive an award. We understand that many of Eastman's workers live in Virginia. The Presidential Green Chemistry Challenge Program is a voluntary partnership between EPA and the chemical industry and broader scientific community. The annual awards recognize outstanding innovations in green chemistry that are scientifically, environmentally, and economically beneficial. The results of this national competition are impressive; since 1996, the 72 award-winning technologies have eliminated the use and generation of hundreds of millions of pounds of toxic substances, while saving energy and lowering costs. Details are available on the program's website at [www.epa.gov/greenchemistry](http://www.epa.gov/greenchemistry).

This year, Eastman Chemical Company has won the Greener Synthetic Pathways Award for a novel, enzymatic process to make esters for cosmetics and personal care products. We and the attendees from Eastman Chemical Company would be honored if you or your staff could attend the awards ceremony. I will present the 2009 Presidential Green Chemistry Challenge Awards to Eastman Chemical Company and five other recipients at our ceremony at the Carnegie Institution for Sciences, 1530 P St., NW, Washington, D.C. on Monday, June 22, 2009, at 5:30 p.m. The ceremony will last approximately one hour. I expect to be joined by representatives of the White House, the American Chemical Society, and other Federal agencies.

If I can be of further assistance, please let me know, or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Jones".

James J. Jones  
Acting Assistant Administrator

JIM WEBB  
VIRGINIA

AL-07-001-1268

WASHINGTON OFFICE:  
WASHINGTON, DC 20510  
(202) 224-4024

COMMITTEE ON  
ARMED SERVICES  
COMMITTEE ON  
FOREIGN RELATIONS  
COMMITTEE ON  
VETERANS' AFFAIRS  
JOINT ECONOMIC COMMITTEE

## United States Senate

WASHINGTON, DC 20510-4805

July 12, 2007

Ms. Stephanie N. Daigle  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Rm. 3426 ARN  
Washington, D.C. 20460

Dear Mr. Daigle:

Enclosed is correspondence I have received in reference to a matter that appears to be under the authority of your agency.

*exempt b* has requested my assistance with a natural gas pipeline that he contends is emitting pollution and negatively affecting his property at *exempt b*

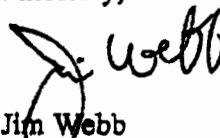
Your assistance with the requests and concerns expressed in this case would be greatly appreciated. It would be very helpful if you would reply directly to the constituent and send a copy of your response to my Hampton Roads office. In your response, please reference *exempt b* 1 and mail to:

Office of Senator Jim Webb  
Attn: Andrea R. Trotter  
222 Central Park Avenue, Ste. 120  
Virginia Beach, VA 23462  
757-518-1674  
FAX: 757-518-1679

Thank you so much for your attention to this matter.

With warm regards, I remain

Sincerely,



Jim Webb  
United States Senator

JW:at

OFFICE OF SENATOR JIM WEBB  
Constituent Service Inquiry

I would like your help in resolving a problem I am having with the following Federal agency:

USDOT-

My problem is (please provide highlights, dates, and backup information):

The Environmental Protection Agency should make determination on the natural gas pipeline and violations of Federal codes

In keeping with the provisions of the Privacy Act of 1974, I authorize the office of Senator Jim Webb to request and review any information required to assist me.

Signature: exempt Date: 6/5/07  
Name (please print): exempt  
Address: exempt City Ches Zip 23323  
Phone: (H) exempt (B) exempt  
E-mail Address: exempt  
Social Security or Claim Number: \_\_\_\_\_

Please mail this information to the Senator's Hampton Roads Office at:

222 Central Park Ave.  
Suite 120  
Virginia Beach, VA 23462  
~~Charles F. Stanton - Regional Representative~~  
(757) 518-1674 phone (757) 518-1679 fax  
~~Charles\_Stanton@webb.senate.gov~~

REPORT OF VIOLATIONS OF TITLE 49 CODE OF FEDERAL REGULATIONS  
AND THEIR EFFECTS AT

*Exempt*

*Exempt*

Highlighting the Involvement of  
Department of Transportation  
Columbia Gas Transmission Corporation  
City of Chesapeake, Virginia

August 9, 2004



Prepared for the U.S. Secretary of Transportation  
By Ed Johnson

## EXECUTIVE SUMMARY

The U.S. Department of Transportation (DoT) has been caught in the act of not enforcing the Code of Federal Regulations for natural gas transmission pipelines and operators, enforcement authority for which DoT has been duly imbued.

Title 49 Code of Federal Regulations (CFR) Part 192 applies to natural gas pipelines and the transportation of natural gas. These Regulations consist of many requirements. The more salient issues I bring up herein constitute violations of these Regulations:

1. CFR requires a minimum cover of 36 inches; DoT has endorsed different depths ranging from 43 to 21 inches at the same location. Actual depth was measured at 14 inches. This spawned the next item, #2.
2. DoT contends that burial depth (a construction requirement) does not apply to existing pipelines. However, CFR applies to both existing and new pipelines - all pipelines. This spawned the next item, #3.
3. The buried pipelines at our location were installed so long ago that they are grandfathered such that the CFR does not apply. Examination of 49 CFR 192 reveals no such grandfathering exists.
4. DoT surprisingly finds that these pipelines are not converted pipelines. If not converted, then these pipelines should NOT be in service.
5. DoT supports Columbia Gas Transmission keeping the historical records for these pipelines for only five years. As I explain herein, CFR requires records on these pipelines to be kept for the life of the pipelines.
6. DoT has flatly stated that there is no hazard concerning these two pipelines since the ditch under which the pipelines pass is not a graded ditch. I amply supported, to the contrary, that the ditch IS graded.
7. DoT has proclaimed that Columbia Gas Transmission has now remediated our drainage problems here and added safety features consistent with CFR. I amply submitted that the drainage has not been fixed but has been made worse. What would one expect when a drainage ditch is filled in? DoT-claimed consistency with CFR just is not so.
8. Columbia Gas Transmission and City of Chesapeake, with backing from DoT, have violated City of Chesapeake Storm Water Rules. This has degraded neighborhood drainage and devalued our home and property as well as created hazards to persons/property/environment.
9. DoT and Columbia Gas Transmission finally got around to blaming me for excavation to explain differences in pipeline depth. I have submitted data to sufficiently counter this. The real culprit was the Columbia Gas Transmission official who rigged a phony depth measurement under the nose of the DoT inspector. I was there; I saw this first-hand.
10. With DoT claiming that the CFR is too new to apply to "my" pipelines, I researched the earlier rules only to learn that these pipelines do not meet the earlier rules either.

DoT is not only refusing to enforce the Code of Federal Regulations in our situation here but has expressed policies that help towards explaining other, recent buried pipeline accidents - the explosion that occurred in August 2000 in New Mexico, for example.

Exhibited has been a symbiotic relationship between DoT and Columbia Gas Transmission. The Department of Transportation has steadfastly refused to enforce the Rules that the Department of Transportation has been charged to enforce. The Department of Transportation is aware that Columbia Gas Transmission's nonconformance to the Rules creates the very situation that renders our storm/ditch water drainage problem here unfixable. There is at least the appearance of conflict of interest on the part of the Federal Government's Department of Transportation. Hazards to persons, property, and the environment exist. We ask that the Regulations be followed and our condition here made right. Please.

## COVER PAGE PICTURE

The picture of this Report Cover depicts the buried natural gas transmission pipeline that unexpectedly exploded 19 August 2000, in Carlsbad, New Mexico. This picture is included because of several similarities between this Pipeline and the Pipelines at

*exempt*

- The Carlsbad Pipeline and the Chesapeake Pipelines were installed to transport high-pressure natural gas. Both locations involve more than one pipeline.
- The Carlsbad Pipeline and Chesapeake Pipeline are buried transmission pipelines, put in place in 1950.
- The Carlsbad Pipeline had been *inspected* in May 2000. NO violations were found. This was just three months before the rupture and ensuing explosion that killed 5 children and 7 adults. (The Carlsbad Pipeline had been *last checked* 2 August 2000 – just two and one half weeks before the explosion.)
- The Chesapeake Pipelines were inspected in May 2000. Although both pipelines were verified as too shallow where they pass under the roadway ditch, DoT found NO Code of Federal Regulations violation. The property at 1448 Culpepper Avenue is currently valued at about one third of its worth.
- Even though DoT found no Code of Federal Regulations violation during this inspection, the soil cover over the 12-inch Pipeline was recorded by DoT as 21 inches. 21 inches is less than the Code of Federal Regulations requirement of 36 inches, the mandated minimum performance standard. And this inspection was in itself flawed. An independent Professional Engineer subsequently recorded the accurate measurement of 14 inches. When notified of this actual 14-inch soil cover depth, DoT stood by its finding of NO violations.

The Carlsbad Pipeline is located in a rural area; it was buried up to 15 feet underground. The Chesapeake Pipeline runs through residential area; the 12-inch pipeline depth is 14 inches at critical locations.

**F A X****Office of Senator Jim Webb**

222 Central Park Ave. Suite 120

Virginia Beach, VA 23462

757-518-1674

andrea\_trotter@webb.senate.gov

**To: Environmental Protection Agency****Attn:****Fax number: 202-564-1828****From: Andrea R. Trotter****Fax number: 757-518-1679****Date: 7/12/2007****FAX page 1 of 6****Regarding:****Urgent** \_\_\_\_\_**Review** \_\_\_\_\_**Reply** \_\_\_\_\_**Comment** \_\_\_\_\_

Please investigate the issues raised by *Exempt 6* He has provided supporting documents to our office. Please don't hesitate contact me directly should you need additional information.

Thank you,

Andrea R. Trotter

Hampton Roads Case Worker

757-518-1674

**CONFIDENTIALITY NOTICE:** This Facsimile transmission is intended only for the addressee shown above. It may contain information that is privileged, confidential or otherwise protected from disclosure. Any review, dissemination or use of this transmission or any of its contents by persons other than the addressee is strictly prohibited. If you received this fax in error, please call us immediately upon receipt and return the facsimile documents, by first class mail, to the address above. Thank you for your cooperation.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

JUL 27 2007

*Exempt  
Exempt*

*Exempt*

Thank you for your letter dated July 12, 2007 to the U.S. Environmental Protection Agency (EPA) regarding the Columbia Gas pipeline in Chesapeake, Virginia.

Gas pipelines are regulated by the U.S. Department of Transportation (DOT) under 49CFR Part 192. Specifically, §192.327 addresses requirements for buried transmission lines. EPA has no jurisdiction over these pipelines, and consequently cannot make a determination about their installation, operation or maintenance. EPA has been in contact with DOT and has been advised that Vice Admiral Thomas J. Barrett is the appropriate point of contact for this issue. Vice Admiral Barrett may be contacted at the following address:

Vice Admiral Thomas J. Barrett  
USCG (Ret.), Administrator  
Office of the Administrator, Pipeline and Hazardous  
Materials Safety Administration  
U.S. Department of Transportation  
East Building  
1200 New Jersey Avenue, SE  
Washington, DC 20590

If you have questions, please do not hesitate to contact me or have your staff contact Mrs. LaRonda Koffi, EPA's Virginia Liaison, at 215-814-5374.

Sincerely,

*Donald S. Welsh*

Donald S. Welsh  
Regional Administrator

cc: The Honorable Jim Webb  
Virginia Beach, Va. Office



Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.  
Customer Service Hotline: 1-800-438-2474



bcc

*exempt* - OSWER  
- OSWER  
- OSWER  
OSWER - OSWER - Immediate Office  
*exempt* OSWER

# United States Senate

WASHINGTON, DC 20510

12-001-3563

August 7, 2012

Administrator Lisa P. Jackson  
U.S. Environmental Protection Agency  
Room 300, Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Jackson:

With record droughts across the continental United States causing corn supplies to shrink and prices to spike, we ask you to use your existing waiver authority to adjust the corn-ethanol mandate for the Renewable Fuels Standard.

As you know, the Renewable Fuels Standard (RFS) -- approved as part of the Energy Independence and Security Act of 2007 (EISA) -- increased the original RFS. It was designed to enable continued utilization of corn-based ethanol as next-generation biofuels developed and assumed an increasingly larger share of the total RFS. While we believe the RFS will stimulate advanced biofuels to commercialization, adjusting the corn grain-ethanol mandate of the RFS can offer some relief from tight corn supplies and high prices.

As part of EISA, the Congress included "safety valves" that enable the agency to adjust the RFS in the event of inadequate supplies or to prevent economic harm to the country, a region, or a state. Recent data from the United States Department of Agriculture (USDA) suggests the EPA should exercise its waiver authority for the conventional, corn grain-ethanol mandate.

Earlier this year, the USDA indicated that 72 percent of the U.S. corn crop was in good or excellent condition. However, because of persistent extreme heat and drought, the USDA recently rated only 23 percent of the crop as good to excellent and 50 percent as poor to very poor. USDA's July World Agricultural Supply and Demand Estimates (WASDE) report projects that 2012/13 U.S. corn yields would be 146 bushels per acre, 20 bushels less than two months ago.

As stressful weather conditions continue to push corn yields lower and prices upward, the economic ramifications for consumers, livestock and poultry producers, food manufacturers, and foodservice providers will become more severe. In fact, USDA recently announced that the drought gripping half the country will help push food prices above-normal food price inflation to 3 percent to 4 percent next year. Therefore, we ask you to adjust the corn grain-ethanol mandate of the RFS to reflect this natural disaster and these new market conditions. Doing so will help to ease supply concerns and provide relief from high corn prices.

Sincerely,

Kay R. Hagan  
Kay R. Hagan

Saxby Chambliss  
Saxby Chambliss

Mark Pryor  
Mark Pryor

John Boozman  
John Boozman

Ben Cardin  
Ben Cardin

Johnny Isakson  
Johnny Isakson

Chris Coons  
Chris Coons

Kay Bailey Hutchison  
Kay Bailey Hutchison

Dianne Feinstein  
Dianne Feinstein

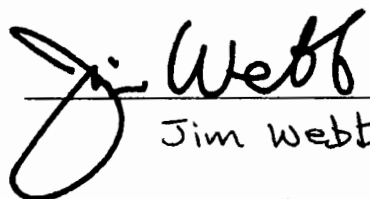
Jeff Sessions  
Jeff Sessions

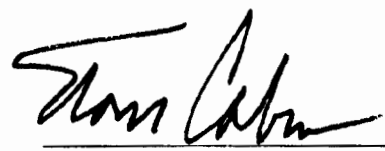
Tom Carper  
Tom Carper


[Signature]

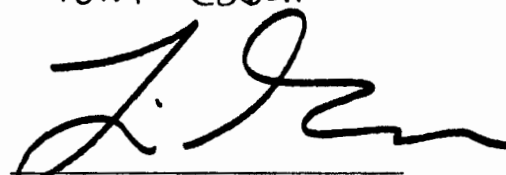
Barbara Mikulski  
Barbara Mikulski


Lisa Murkowski  
Lisa Murkowski

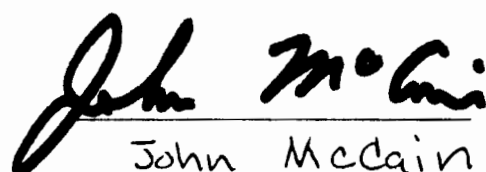
  
Jim Webb

  
Tom Coburn

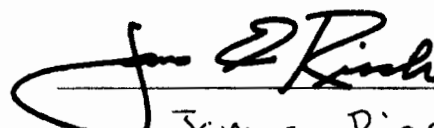
  
Mike Crapo

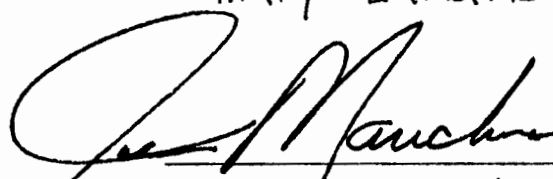
  
Lindsey Graham

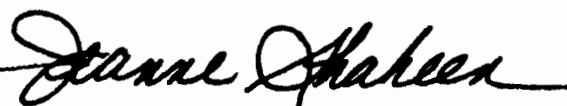
  
Mark Warner

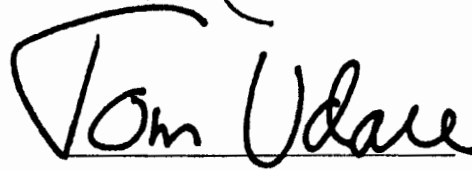
  
John McCain

  
Mary Landrieu

  
James Risch

  
Joseph Manchin

  
Jeanne Shaheen

  
Tom Udall

cc: Secretary Tom Vilsack, U.S. Department of Agriculture  
Secretary Steven Chu, U.S. Department of Energy



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 31 2013

OFFICE OF  
AIR AND RADIATION

The Honorable Jim Webb  
United States Senate  
Washington, D.C. 20510

Dear Senator Webb:

Thank you for your letter dated August 7, 2012, co-signed by 24 of your colleagues, regarding a waiver of volume requirements under the Renewable Fuels Standard (RFS) program. The Administrator asked me to respond on her behalf.

Governors from several states and a number of organizations cited the drought conditions affecting much of the country in their request for a waiver of the national volume requirements for the RFS pursuant to the Clean Air Act. After extensive analysis, review of thousands of comments, and consultation with the Department of Agriculture (USDA) and the Department of Energy (DOE), the EPA denied the requests for a waiver in a decision published in the *Federal Register* on November 27, 2012.

The EPA recognizes that last year's drought has created significant hardships in many sectors of the economy, particularly for livestock producers. However, the agency's extensive analysis makes clear that Congressional requirements for a waiver have not been met and that waiving the RFS would have little, if any, impact on ethanol demand or energy prices over the time period analyzed.

The *Federal Register* notice contains a detailed description of the analysis the EPA conducted in conjunction with DOE and USDA, along with a discussion of relevant comments we received through our public comment process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

A handwritten signature in black ink, which appears to read "Gina McCarthy", is positioned above the printed name.

Gina McCarthy  
Assistant Administrator



10-600-8265

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

May 18, 2010

The Honorable Lisa P. Jackson, Administrator  
United States Environmental Protection Agency  
Ariel Rios Building Mail Code 1101 A  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

Dear Administrator Jackson:

We would like to bring to your attention a matter that is causing uncertainty in the heavy-duty truck market and is threatening jobs in North Carolina, Maryland, Pennsylvania, and Virginia. Specifically, we seek an explanation as to what the Environmental Protection Agency (EPA) intends to do regarding the continued availability of heavy-duty diesel engines that are not compliant with the EPA's 2010 engine emissions standards.

In order to meet the EPA's 2010 emissions standard for heavy-duty trucks, which requires that oxides of nitrogen (NOx) be reduced by 85% from previous levels, most engine manufacturers have introduced new, more costly technology. As a result, the market price for 2010 compliant trucks increased approximately \$8,000 to \$10,000. While most manufacturers accepted their last orders for vehicles with pre-2010 engines in December of last year, others have purchased and stockpiled large quantities of older engines and continue to accept orders and sell 2010 heavy-duty trucks containing these noncompliant engines.

We have been advised that manufacturers adversely affected by the continued sale of pre-2010 engines have expressed their concerns to the EPA that such stockpiling practices are in conflict with the guidance EPA provided. Further, despite efforts by these manufacturers to ascertain what measures EPA will take to address the situation, the Agency has provided little indication that it intends to enforce current law.


As a result, companies with 2010 engines have endured substantial economic disadvantage in an already tenuous market. This uncertainty has already led some manufacturers to schedule weeks of zero production and future down weeks. Continued inaction, unfortunately, could cause the idling of these plants to turn into layoffs at an already inopportune time. Furthermore, many of the trucks sold with stockpiled engines are manufactured outside the U.S. Finally, it is worth noting the intent of EPA's emission standard is to protect the environment yet when cleaner, more efficient engines are readily

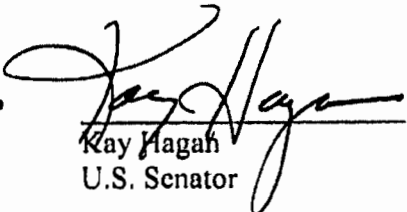
available, they are circumvented by the obsolete technology.

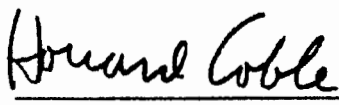
Considering the enormous economic strain facing many industries and individuals, we implore you to clarify how long non-compliant engines will be permitted to be sold, what actions the EPA is prepared to take if non-compliant engines continue to be sold, and what, if any, recourse is available to compliant manufacturers?

We appreciate your immediate attention as this is an urgent issue.

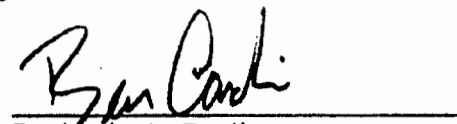
Sincerely,

  
Richard Burr  
U.S. Senator

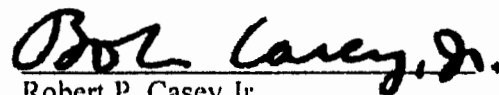
  
Kay Hagan  
U.S. Senator

  
Howard Coble  
Member of Congress


  
Barbara A. Mikulski  
U.S. Senator


  
Benjamin A. Cardin  
U.S. Senator

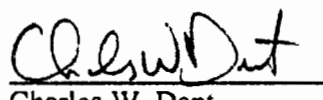
  
Arlen Specter  
U.S. Senator

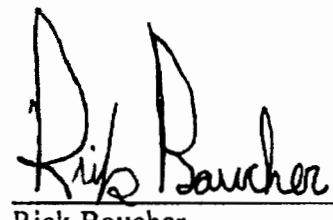
  
Robert P. Casey Jr.  
U.S. Senator

  
Jim Webb  
U.S. Senator

  
Mark Warner  
U.S. Senator

  
Roscoe G. Bartlett  
Member of Congress

  
Charles W. Dent  
Member of Congress

  
Rick Boucher  
Member of Congress

HC:ah



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**JUN 22 2010**

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

The Honorable Jim Webb  
United States Senate  
Washington, D.C. 20510

Dear Senator Webb:

Thank you for your letter of May 18, 2010, to Administrator Jackson regarding actions that manufacturers of highway heavy-duty diesel engines (HDDEs) and heavy-duty diesel vehicles (HDDVs) may have taken to circumvent model year (MY) 2010 emission standards. The Administrator has asked me to respond on behalf of the Agency.

The United States Environmental Protection Agency (EPA) shares your concerns regarding HDDE and HDDV manufacturers' compliance with clean air requirements and is investigating the issues you raise in your letter. Specifically, we are investigating the extent to which HDDE manufacturers built up excess inventories of HDDEs in 2009, to determine whether these manufacturers stockpiled MY 2009 engines to fill orders for MY 2010 vehicles. We also are investigating whether HDDV manufacturers stockpiled MY 2009 engines for MY 2010 vehicle production.

EPA considers stockpiling of HDDEs to avoid compliance with later, more stringent emission standards to be a circumvention of the Clean Air Act. EPA defines stockpiling of engines to be the practice of holding in inventory significantly more engines than a manufacturer normally requires, in the year before emission standards become more stringent. Therefore, an engine manufacturer cannot sell engines to a vehicle manufacturer in a current model year for the purpose of having them installed in a future model year's vehicles, when the engine sale is beyond that required to meet normal lead time requirements for manufacturing the vehicles. Likewise, a vehicle manufacturer cannot order or install engines from a prior model year when the number of such engines exceeds that needed to meet normal inventory requirements.

Generally, if new emission standards apply in a given model year, a new vehicle in that model year should be powered by an engine that is certified to the new standards. EPA recognizes, however, the diverse business practices and arrangements in the HDDE and HDDV industry require some flexibility in evaluating these issues. This is necessary because manufacturers often build engines before the date of the changed standard consistent with normal production lead time requirements and customer orders.



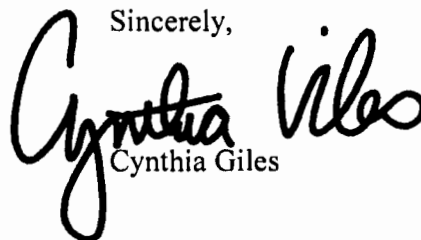


EPA recognizes the need to maintain a level playing field to ensure those manufacturers who commit to the transition to more stringent emission standards are not placed at a competitive disadvantage as compared to those manufacturers who seek to avoid compliance. Accordingly, EPA will continue to investigate these issues.

In August 2009, EPA's Office of Transportation and Air Quality proposed regulations to clarify EPA's enforcement authority to respond to stockpiling situations. In April 2010, following adverse comments by the HDDE industry, EPA decided to defer codification of the proposed stockpiling prohibition until a later rulemaking. EPA continues to work with the HDDE and HDDV industry to craft a stockpiling prohibition that ensures the benefits of emission standard changes, while recognizing the business practices within the HDDE and HDDV industry.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at 202-564-1849.

Sincerely,

A handwritten signature in black ink, reading "Cynthia Giles". The signature is fluid and cursive, with the first name "Cynthia" being larger and more prominent than the last name "Giles".

Cynthia Giles

AL-10-000-2377

JIM WEBB

VIRGINIA

WASHINGTON OFFICE:

WASHINGTON, DC 20510  
(202) 224-4024

COMMITTEE ON  
ARMED SERVICES  
COMMITTEE ON  
FOREIGN RELATIONS  
COMMITTEE ON  
VETERANS' AFFAIRS

JOINT ECONOMIC COMMITTEE

## United States Senate

WASHINGTON, DC 20510-4605

January 19, 2010

Ms. Joyce K. Frank  
Acting Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3426 ARN  
Washington, DC 20460

Dear Ms. Frank:

I am referring to your office the enclosed inquiry from my constituent, regarding the dumping of asphalt into streams.

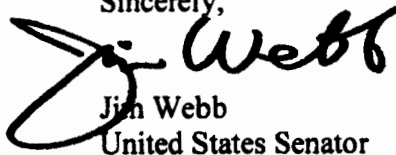
*exempt 6*

My constituent would appreciate your careful consideration of these remarks. Please respond directly to my constituent and send a copy to me at:

The Honorable Jim Webb  
United States Senate  
Washington, DC 20510  
Attention: Jenny Bryant

I thank you for your attention to this matter.

Sincerely,

  
Jim Webb  
United States Senator

JW:jb,

jb

[Print](#)

## Correspondence Snapshot for Activity Id: 773967

*exempt b*  
 Collinsville, VA 24078-1707  
*exempt b*

**Incoming**

Received By	ccadminwebb	Classification	
Received Date	10/19/2009	Reference#	
In Type	EML	Owner	ccadminwebb
Assigned Staff	bryantj	File Location	773967
Interest	EV001, GN001		

**Description****Comments****Addressed To**

<b>PartyId</b>	<b>PartyName</b>
General	General

**Outgoing**

Group		Due Date	12/19/2009
Out	Email	Printed	1/19/2010
Response	Quick	Closed Date	1/19/2010
Letter	GN002		

**Record Information**

Created By	ccadminwebb	Modified By	bryantj
Created On	10/15/2009 12:21:00	Modified On	1/19/2010 12:33:00

**Incoming Email Message**

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 <FIRSTNAME>v</FIRSTNAME>  
 <LASTNAME>-</LASTNAME>  
 <ADDRESS1>*exempt b*</ADDRESS1>  
 <ADDRESS2>  
 <CITY>Collinsville</CITY>  
 <STATE>VA</STATE>  
 <ZIP>24078</ZIP>  
 <HOMEPHONE></HOMEPHONE>  
 <WORKPHONE>*exempt b*</WORKPHONE>  
 <EMAIL>*exempt b*</EMAIL>  
 <SUBJECT>EV001</SUBJECT>

<MESSAGEBODY>I am having a problem with someone putting Asphalt into a urban stream and no government agency will do anything.

Always seems to be a loophole or gray area that allows this to go on. I am including a breif letter I sent to News stations in the area and I hope you can help with this situation.

Letter:I had DEQ and Corp. of Engineers both come out. DEQ was a not helpful and the Corp said that there was not enough (less than 300 linier feet) to require a permit. The standing of Henry Co. is that it is not thier area of Jurisdiction,

and that the parking lot and subsequent rain water that is being dumped into the stream and eroding the bank was not a violation and was done pre Code and the asphalt was a DEQ problem and deferred to DEQ (He also tried to tell me that parking lot was done before there was a code(not true) )

*exempt* of DEQ( Pollution Response Coordinator.) He only reluctantly came out after repeated calls to *exempt* at DEQ. He observed concrete that had been put in the stream, even got in the stream and looked closer at where the concrete had ran into the water. Then proceeded to tell me that the cured asphalt (oil, tar, and rock) ( you can see the oil coming out of the asphalt) was not a violation and there would be minimal leachage into the stream. He also told me that he could see where *exempt* was trying to barrier the bank. He said that the concrete was toxic to fish, but that it was already done and he could not do anything if he did not see them doing it. He spoke with *exempt* and told me that he had told *exempt* that concrete should not be put in the stream. end of story. He also said that he had determined that the drains going into the creek where ok after a discussion he had with *exempt* The US Corp. of engineers agreed that the excessive ran water was causing the erosion and like the DEQ said that it was less than 300 linier feet and even though they would not have issued a permit to use asphalt as fill, there was nothing they could do. "We have to follow the laws" So it is the laws that permit dumping of Oil, Tar, and Concrete into streams for fill, if the materials are dry and not used on more than 300 feet of bank. Does this sound hypocritical to anyone but me. I just spoke with a gentleman from Henry Co. that saw and herd my situation on the local cable news that I called and sent pictures to. He had dealt with Mr.

*exempt* before and told me that I was wasting my time hoping that he would do anything at all. He also told me that like himself, *exempt* is a member of Trout Unlimited and that they would not appreciate what he had done. I am now planning to contact Trout Unlimited and advise them of the practices of one of there members. This is only a brief part of what has been said about this situation and I just thought you may find this interesting and hope that you could possible help. PLEASE I did Vote for you.</MESSAGEBODY>

<AddressTo>General</AddressTo>

AL-10-000-2377



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

MAR 16 2010

*Exempt*  
Collinsville, Virginia 24078

Dear *Exempt*

I am responding to your electronic correspondence to Senator Jim Webb concerning the disposal of asphalt into Daniels Creek.

In a Memorandum of Understanding (MOU) dated March 31, 1975 regarding Permit and Enforcement Programs, the U.S. Environmental Protection Agency (EPA) Regional Administrator authorized delegation of the compliance monitoring and inspection program to the Commonwealth of Virginia, State Water Control Board. This MOU was amended on February 9, 1982 and May 20, 1991.

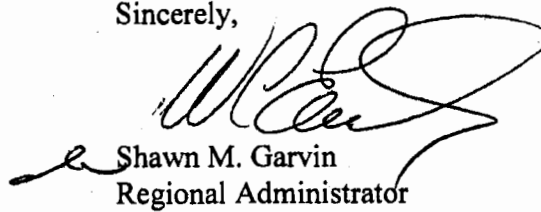
On September 30, 2009, the Virginia Department of Environmental Quality (VADEQ) conducted an inspection at the Kings Mountain Animal Clinic located at 5086 Kings Mountain Road, Collinsville, Virginia 24078. An authorized inspector of the VADEQ observed cured, hardened asphalt in Daniels Creek. This measure was employed to mitigate erosion that was occurring downstream and around a concrete ditch on the stream bank. The VADEQ inspector indicated that the deposited material was inert, and posed no threat to water quality. This activity does not require a permit.

On October 8, 2009, an authorized inspector from the U.S. Army Corps of Engineers (USACE) observed the site. The USACE inspector indicated that the Kings Mountain Animal Clinic utilized material to stabilize the stream channel, which resulted in the placement of fill material less than 300 linear feet, less than 0.10 acres, and less than 10 cubic yards. This is considered a non-reporting activity that is qualified under the USACE's Nationwide Permit 18 (NW18).

EPA's review of inspection reports from both VADEQ and USACE inspectors indicate that placement of a concrete, storm water conveyance or "ditch" is routing storm water from the parking lot and the clinic roof into the creek and may be accelerating downstream erosion. At the request of EPA's NPDES Enforcement Branch staff, the VADEQ Blue Ridge Soil and Water Conservation District intends to investigate this matter within two weeks. Any findings and/or determinations will be shared with this office and further communicated to you.

If you have any questions concerning this matter, please do not hesitate to contact Ms. Amie Howell, EPA's Virginia Liaison, at (215) 814-5722.

Sincerely,



Shawn M. Garvin  
Regional Administrator

cc: Honorable Jim Webb  
Washington, D.C. Office

*exempt* VADEQ  
*exempt* VADEQ  
*exempt* JSACE

# United States Senate

WASHINGTON, DC 20510

10-000-4696

March 25, 2010

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

First, we applaud your remarks in the State of the Union that the United States needs to build "a new generation of safe, clean nuclear power plants." As nuclear energy supplies more than 70 percent of the electricity generated by sources that do not emit greenhouse gases into the atmosphere, we agree with you that safe nuclear power must play an increasingly important role in meeting our rising energy demand and ensuring cleaner air. We also recognize that there are many hurdles to realizing a significant expansion of nuclear power, including financial and regulatory challenges, workforce issues, the development of new technologies, and ensuring the safety and longevity of the current fleet, to name a few.

We are encouraged that the U.S. Nuclear Regulatory Commission (NRC) currently is reviewing applications for 22 new reactors to be built over the next ten to twenty years. However, we recognize that there will be challenges ahead. The Administration's 2011 budget request increasing loan volume to \$54.5 billion is an important catalyst to accelerate construction of new nuclear plants, but we need to continue to hear from utilities and investors as to what else is needed to get the first of the new generation of plants off the ground.

To address the myriad challenges ahead, we propose that the White House partner with us to co-sponsor a nuclear energy summit. This summit would be a meeting of key leaders, stakeholders, and innovators to discuss and plan for nuclear energy's future. We believe that the White House's support will be crucial to convene the right leaders in the U.S. Government and the private sector to develop a strategy to ensure that nuclear power plays a necessary and vital role in our national energy and environmental policy.

We recognize your commitment to finding the solutions to our nation's energy challenges and look forward to attendance and support by several members of your leadership team, including Energy Secretary Steven Chu, NRC Chairman Gregory Jaczko, and Environmental Protection Agency (EPA) Administrator Lisa Jackson. The attendees at this summit will be senior executives representing the commercial energy industry and related industrial sectors and government, including Congress, the White House, the Department of Energy and its national laboratories such as Idaho National Laboratory, the NRC, and the EPA. We would also like to

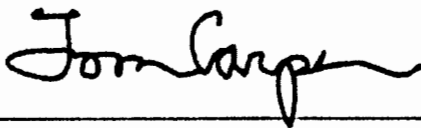
include leaders in the investment community, such as Bill Gates, who have the financial wherewithal to steer markets and interest in potential investments in new nuclear-related technologies.

Among the issues this summit should address are:

- The development of a 50-year strategy to ensure that nuclear power continues to play a vital role in our domestic energy supply;
- The major initiatives that are currently underway or contemplated for the nation and the extent to which these set the stage for the nuclear energy strategy;
- The responsibilities of government and the private sector in fulfilling a new nuclear strategy; and
- The possible creation of an industry/government working group that will provide advice and counsel to key government agencies that will help ensure resources and efforts are effectively implemented to execute a national nuclear energy policy.

We would appreciate your views on co-sponsoring such a summit, which we think would be beneficial to be held within the next 3-4 months, as well as your suggestions for principal coordinators and attendees. Forging a new future for nuclear power generation is vital to our nation's security and energy needs, and we look forward to working with you on this endeavor.

Sincerely,

  
\_\_\_\_\_

  
\_\_\_\_\_



Mary Landrum

David Vitt

Lamar Alexander

Amy Klobuchar

Mike Cryer

Jo Webb

Mark R. Werner

Jim Clark

Jefferson

JIM WEBB  
VIRGINIA

COMMITTEE ON  
ARMED SERVICES  
COMMITTEE ON  
FOREIGN RELATIONS  
COMMITTEE ON  
VETERANS' AFFAIRS  
JOINT ECONOMIC COMMITTEE

United States Senate  
WASHINGTON, DC 20510-4605

WASHINGTON OFFICE:  
WASHINGTON, DC 20510  
(202) 224-4024

12-000-5003

February 28, 2012

Mr. David McIntosh, Executive Director  
Environmental Protection Agency  
Room 3426 ARN  
1200 Pennsylvania Avenue  
Washington, DC 20460-0002

Dear Mr. McIntosh:

Enclosed is correspondence from my constituent in reference to a matter involving your agency.

Please give this letter every appropriate consideration and review my constituent's case in accordance with all rules, regulations and laws applicable to your agency. Your immediate attention and expeditious assistance would be greatly appreciated.

Please reply in duplicate to my Richmond office and return the enclosure. In your reply, please reference *Memph*

Thank you so much for your assistance to my constituent.

With warm regards, I remain

Sincerely,

*Jim Webb*  
Jim Webb  
United States Senator

JW:dh

[Print](#)

## Correspondence Snapshot for Activity Id: 1478123

Rockville, VA 23146-0116

## Incoming

Received By		Classification	
Received Date	2/13/2012	Reference#	
In Type	EML	Owner	ccadminwebb
Assigned Staff	williamsi	File Location	
Interest	EV001		

## Description

## Outgoing

Group		Due Date	5/08/2012
Out	Email	Printed	
Response	Form	Closed Date	
Letter			

## Record Information

Created By	ccadminwebb	Modified By	andersonr
Created On	2/12/2012 12:03:00	Modified On	2/27/2012 02:50:00

## Incoming Email Message

&lt;IP&gt;184.5.232.204&lt;/IP&gt;

Marshall&lt;/FIRSTNAME&gt;

Peters Church  
RD</ADDRESS1>

<PREFIX>Mr</PREFIX>  
 <FIRSTNAME>exempt6  
 <LASTNAME>exempt6 LASTNAME>  
 <ADDRESS1>exempt6

<ADDRESS2>  
 <CITY>Montpelier</CITY>  
 <STATE>VA</STATE>  
 <ZIP>23192-3010</ZIP>  
 <HOMEPHONE>  
 <WORKPHONE>  
 <EMAIL>e  
 <SUBJECT>EV001</SUBJECT>  
 <MESSAGEBODY>Although

we use a Rockville, VA PO Box for mail security reasons, my wife exempt6 daughter exempt6 and I (exempt6) actually live at 15919 St Peters Church RD, Montpelier, VA 23192. Our house is kind of "down in a little dip", so to speak, and there are houses on a little ridge up above us. In the cool months, we heat with a heat pump. Our house does have a fireplace and a chimney but we never use it. However, some of the houses around here heat with their fireplaces. On one hand, I don't mean to be a "grump", however, the air currents around here somehow bring a lot of the smoke from the neighbors chimneys down on our house. Somebody may also cook with their chimney, maybe they have an old type stove connected to their chimney, because sometimes we can even smell what they are having for breakfast, lunch and supper. I have a tendency to have asthma and my wife and daughter, as do I, have sinus problems. The smoke really bothers us at times. Tonight, I am sitting up in the wee hours of the morning, giving myself a nebulizer treatment of albuterol because the smoke from my neighbors is bothering me so much. Sometimes I have wondered if there is any way that our neighbors around here could be required to put some sort of filter on their chimneys, during the heating season, or be given some sort of deals on heat

pumps and required to use those so we are not negatively impacted by their chimney smoke. Apparently there is really nothing, short of moving, that I can do to keep our neighbors chimney smoke away from us. If you have any suggestions which would help us, we would be grateful. Sometimes, during the winter, I feel like a pack a day smoker and I don't smoke and never have. I don't want to end up in the hospital or dead due to my neighbors' chimney smoke.

Thank you for any information/advice/help which you may be able to provide. Thank you for your kind attention to this email.

Respectfully,

*Exemptb*

*Exemptb*

Montpelier, VA  
73192-3010</MESSAGEBODY>

<AddressTo>General</AddressTo>

7



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

AL-12-00-0003

APR 02 2012

The Honorable Jim Webb  
United States Senate  
Washington, D.C. 20510

Dear Senator Webb:

Thank you for your letter of February 28, 2012 to the U. S. Environmental Protection Agency (EPA) on behalf of your constituent, *exempt* regarding residential chimney smoke.

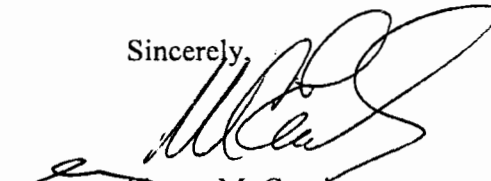
*exempt* states that many of his neighbors use fireplaces to heat their homes during the winter months. He explains that his home is in a lower elevation than that of his neighbors and the air current carries the smoke from his neighbors' chimneys in the direction of his home. He further states that he and his family have become ill from the smoke. He is looking for information on filtering systems or residential chimney smoke regulations.

While the EPA understands these concerns, we do not regulate the operation of, or the emissions from residential fireplaces and chimneys. EPA contacted the Commonwealth of Virginia Department of Environmental Quality (VADEQ) to discuss *exempt* concerns. EPA was informed that currently there are no state rules or local ordinances regulating the operation of or emissions from residential fireplaces and/or chimneys in Hanover County, Virginia. EPA does not have the authority to require states, counties and/or local authorities to develop and implement regulations for the operation of or emissions from residential fireplaces and chimneys.

We contacted *exempt* to confirm the smoke he is experiencing is coming from residential fireplaces and not outdoor burning, which is regulated by the VADEQ. He responded that he believes the smoke is coming from residential fireplaces.

If you have any questions, please do not hesitate to contact me or have your staff contact Mrs. Laura Mohollen, EPA's Virginia Liaison, at 215-814-3295.

Sincerely,



Shawn M. Garvin  
Regional Administrator



# United States Senate

WASHINGTON, DC 20510

10-001-6198

September 24, 2010

The Honorable Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code: 1101A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concern about the EPA's proposed Maximum Achievable Control Technology (MACT) rules, including the so-called Boiler MACT and CISWI MACT, which were published in the Federal Register on June 4, 2010. As our nation struggles to recover from the current recession, we are deeply concerned that the pending Clean Air Act boiler MACT regulations could impose onerous burdens on U.S. manufacturers, leading to the loss of potentially thousands of high-paying jobs this sector provides. As the national unemployment rate hovers around 10 percent, and federal, state, and municipal finances continue to be in dire straits, our country should not jeopardize thousands of manufacturing jobs. The flow of capital for new investment and hiring is still seriously restricted, and the projected cost of compliance could make or break the viability of continued operations. Both small and large businesses are vulnerable to extremely costly regulatory burdens, as well as municipalities, universities and federal facilities.

The EPA's regulatory analysis understates the significant economic impacts of the proposed rule. For example, the impact will be substantial to small businesses, such as sawmills, which have large boilers. In addition, EPA has concluded that no additional large biomass fired boilers will be built in the United States, indicating the cessation of the domestic biomass industry. As a result, we are rightly concerned that the proposed standards appear to create serious obstacles to the development of biomass energy projects, which have the potential to significantly reduce air pollution and production of greenhouse gases. Further, we are concerned that if adopted as currently proposed, the boiler MACT rules would discourage the current use of wood biomass in wood, pulp, and paper facilities, and most likely result in significant job losses in these industries. While we support efforts to address serious health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

In Section 101 of the Clean Air Act, Congress declared that one of the fundamental purposes of the Act is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." Congress provided EPA with discretion in certain areas to carefully design regulations that protect health and the environment while promoting the productive capacity of the nation. We are writing today to ask that you exercise this discretion in completing the MACT rulemakings. We understand that the Boiler MACT rule alone could impose tens of billions of dollars in capital costs at thousands of facilities across the country. The CISWI rule would have devastating impact on the biomass industry. Thus, we appreciate your willingness, as expressed in your

responses to previous Congressional letters, to consider flexible approaches that appropriately address the diversity of boilers, operations, sectors, and fuels that could prevent severe job losses and billions of dollars in unnecessary regulatory costs.

To help reduce the burden of the rule in a manner that does not compromise public health and safety, we believe EPA should consider exercising the "health threshold" discretion that Congress provided under Section 112(d)(4) of the Act. Under this section of the law, for emissions that are considered safe to human health in concentrations that fall below an established threshold, EPA may use this risk information to set emissions standards. In reaching your final decision, we ask that you carefully consider the extensive record that supported the Agency's determination to include health-based emissions limitations for hydrogen chloride and manganese in the previous Boiler MACT rulemaking that was set aside by the reviewing court on wholly unrelated grounds.

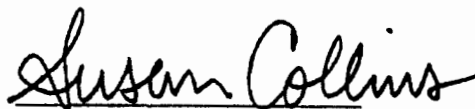
EPA also should use a method to set emissions standards that are based on what real world best performing units actually can achieve. It is our understanding that the EPA emissions database does not truly reflect the practical capabilities of controls or the variability in operations, fuels and testing performance across the many regulated sectors and boilers, especially in light of the proposal's reliance on surrogates, such as carbon monoxide – a pollutant with wide variability in actual boiler operation especially from biomass-fired boilers. In addition, the Clean Air Act also provides EPA with broad discretion to subcategorize within a source category based on size, type and class of source to help ensure that the emission limitations are determined based on what real world best performing units can ultimately achieve in practice. We do not believe that EPA has fully exercised its responsibility to subcategorize the numerous types and combinations of boilers and fuels. In particular, we urge you to carefully consider how the regulations can promote energy recovery from renewable, alternative fuels such as biomass. Finally, we urge you to consider how work practices for all gas-fired units, such as biogas and land fill gas fired boilers, could avoid the increase in emissions (e.g., NOx and CO2) and energy use that would result from the numerous control technologies required with no guarantee of actually achieving the emission limits.

As EPA turns to developing final MACT rules, we hope you will carefully consider these recommendations and comments to protect the environment and public health while fostering economic recovery and jobs.

Sincerely,



Mary L. Landrieu  
U.S. Senator



Susan M. Collins  
U.S. Senator



Ron Wyden

Ron Wyden  
U.S. Senator

Lamar Alexander

Lamar Alexander  
U.S. Senator

Evan Bayh

Evan Bayh  
U.S. Senator

George V. Voinovich

George V. Voinovich  
U.S. Senator

Patty Murray

Patty Murray  
U.S. Senator

Olympia Snowe

Olympia Snowe  
U.S. Senator

Blanche L. Lincoln

Blanche Lincoln  
U.S. Senator

Kit Bond

Kit Bond  
U.S. Senator

Bob Casey, Jr.

Robert Casey  
U.S. Senator

Bob Corker

Bob Corker  
U.S. Senator

Amy Klobuchar

Amy Klobuchar  
U.S. Senator

Richard Shelby

Richard Shelby  
U.S. Senator

Mark Pryor

Mark Pryor  
U.S. Senator

Roger Wicker

Roger Wicker  
U.S. Senator

Mark Begich

Mark Begich  
U.S. Senator

Saxby Chambliss

Saxby Chambliss  
U.S. Senator



Claire McCaskill  
U.S. Senator



James Risch  
U.S. Senator



Mark Warner  
U.S. Senator



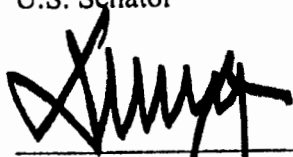
Richard Burr  
U.S. Senator



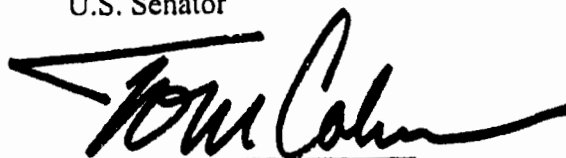
Barbara Mikulski  
U.S. Senator



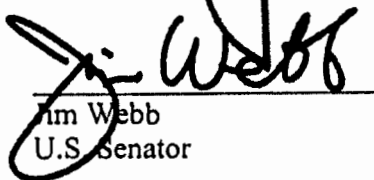
Mike Crapo  
U.S. Senator



Daniel Inouye  
U.S. Senator



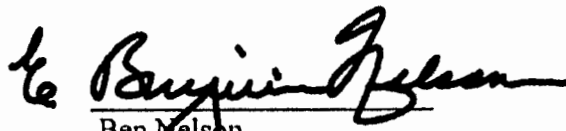
Tom Coburn  
U.S. Senator



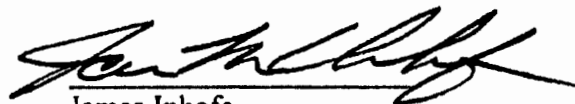
Jim Webb  
U.S. Senator



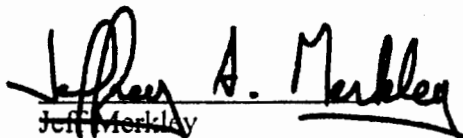
Jeff Sessions  
U.S. Senator



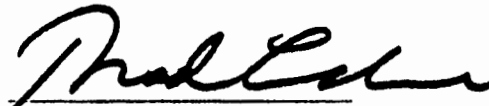
Ben Nelson  
U.S. Senator



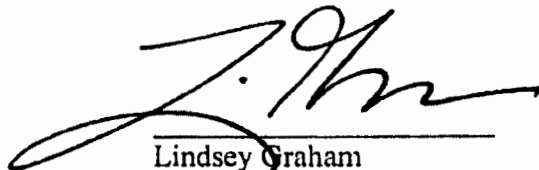
James Inhofe  
U.S. Senator



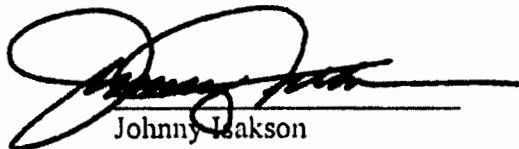
Jeff Merkley  
U.S. Senator



Thad Cochran  
U.S. Senator



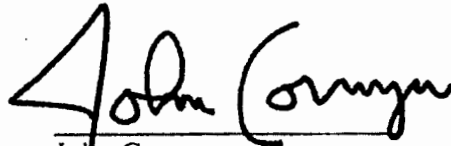
Lindsey Graham  
U.S. Senator



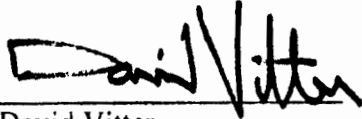
Johnny Isakson  
U.S. Senator



Herb Kohl  
U.S. Senator



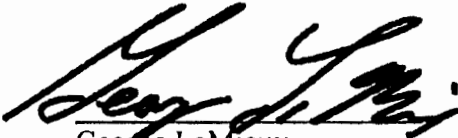
John Cornyn  
U.S. Senator



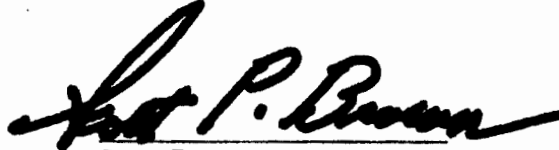
David Vitter  
U.S. Senator



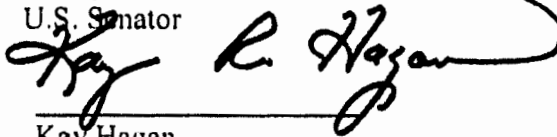
Kay Bailey Hutchison  
U.S. Senator



George LeMieux  
U.S. Senator



Scott Brown  
U.S. Senator



Kay Hagan  
U.S. Senator

cc: Regina McCarthy, Environmental Protection Agency  
Robert Perciasepe, Environmental Protection Agency  
Cass Sunstein, Office of Management and Budget  
Thomas Vilsack, Department of Agriculture  
Gary Locke, Department of Commerce  
Lawrence Summers, National Economic Council  
Jeffery Zients, Acting Director, Office of Management and Budget  
Ron Bloom, Department of the Treasury  
Nicole Lamb-Hale, Department of Commerce  
Melody Barnes, Domestic Policy Council  
James Messina, Executive Office of the President  
Philip Schiliro, Executive Office of the President  
Cecilia Munoz, Executive Office of the President



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 28 2010

THE ADMINISTRATOR

The Honorable Jim Webb  
United States Senate  
Washington, D.C. 20515

Dear Senator Webb:

Thank you for your recent letter about the proposed standards for controlling hazardous air emissions from industrial, commercial, and institutional boilers and process heaters ("Boiler NESHAP") and about the proposed standards for commercial and industrial solid waste incinerators ("CISWI Rule"). You raise important concerns, which I take very seriously.

As you know, the rulemakings at issue are not discretionary. In Sections 112 and 129 of the Clean Air Act, Congress directed the U.S. Environmental Protection Agency ("EPA") to establish these standards. EPA issued the proposals after many years of delay, and in order to meet a deadline ultimately set by the U.S. District Court for the District of Columbia.

Many of the facilities in question are located in very close proximity to neighborhoods where large numbers of people live and large numbers of children go to school. EPA estimates that the new standards will cut the facilities' toxic mercury emissions in half and, in the process, reduce their annual emissions of harmful sulfur dioxide and particulate matter by more than 300,000 tons and more than 30,000 tons respectively.

Each year, those reductions in air pollution will avoid an estimated 2,000 to 5,100 premature deaths, 1,400 cases of chronic bronchitis, 35,000 cases of aggravated asthma, and 1.6 million occurrences of acute respiratory symptoms. EPA estimates that Americans will receive five to twelve dollars in health benefits for every dollar spent to meet the standards.

Section 112 of the Clean Air Act directs EPA to calibrate the standards for each subcategory of facility to the emissions control that the best-performing twelve percent of existing facilities in that subcategory are currently achieving. The same section of the statute identifies the types of information that are necessary to justify the establishment of any separate subcategory. In an effort to establish separate subcategories wherever appropriate, and to calculate accurately the standards for each subcategory, EPA asked the affected companies and institutions for technical data about their facilities long before the court-ordered deadline for publishing a proposal. As is often the case in Section 112 rulemaking efforts, however, EPA did not receive many data. While the agency was not left entirely lacking in relevant information, the limited response from affected businesses and institutions did make it difficult for EPA to

delineate subcategories and calculate standards that fully reflected operational reality. The agency nevertheless was legally required to publish proposed subcategories and standards based on the information it had at the time.

Fortunately, a number of potentially affected businesses and institutions responded to EPA's published proposal by giving the agency relevant data that it had not possessed at the time of the proposal. The agency will make exhaustive use of all of the relevant data received during the period for public comment. EPA is now learning things that it did not know before about the particulars of affected sectors and facilities. The final standards will reflect the agency's new learning, and that is how the rulemaking process is supposed to work. In fact, EPA is so committed to ensuring that the final standards will reflect all of the relevant information received during the public comment period that the agency has just sought and obtained from the District Court a one-month postponement, until January 16, 2011, of the deadline for issuing the final Boiler NESHAP. EPA is taking the necessary time to get the final standards right.

Businesses that burn biomass in their boilers and process heaters are particularly worried that the limited information underlying EPA's proposed subcategories and standards might cause many boilers that currently burn renewable biomass to shut down entirely or to convert to burning non-renewable fossil fuels. Please know that EPA is paying particular attention to the subject of biomass-fired boilers and process heaters as the agency works to develop final standards. In your letter, you reference EPA's projection regarding new major-source boilers that burn biomass. That projection, which comes originally from the Energy Information Administration ("EIA"), is not based on the Boiler NESHAP or the CISWI Rule. Neither EPA nor EIA is projecting that these rules will cause anything like the cessation of the domestic biomass industry.

While many businesses are pleased that EPA solicited comment on using Section 112(d)(4) of the Clean Air Act to set a health-based standard (as opposed to a purely technology-based standard) for certain hazardous air pollutants such as hydrogen chloride, those same businesses believe that EPA should have identified the establishment of a health-based standard as the agency's preferred outcome. The discretionary establishment of a health-based standard would need to be based on an adequate factual record justifying it. EPA did not identify a health-based standard as a preferred outcome in the proposal, because the agency did not possess at the time of the proposal a factual record that could justify it.

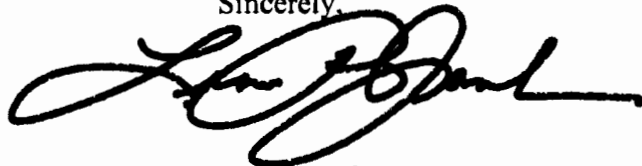
The pollution control equipment that limits emissions of hydrogen chloride also happens to limit emissions of other highly toxic air emissions, including acid gases. Thus, while a health-based standard might be justified for hydrogen chloride in isolation, EPA needs to consider the ramifications of such an alternative for the control of other highly toxic pollutants. With that said, EPA has taken note of the public comments on the establishment of a health-based standard. Several stakeholders commented, for example, that most biomass might contain less acid gas than most fossil fuels, potentially making biomass-fired boilers and process heaters better candidates than fossil fuel-fired ones for a health-based standard. EPA will carefully evaluate the substance and relevance of those comments, as well as any additional data submitted during the public comment period, before making a final decision on the establishment of any health-based standard.

In recent weeks, two industry trade associations issued two separate presentations, each claiming that the Boiler NESHAP and CISWI Rule would cost the U.S. economy jobs. The presentations differ significantly from each other when it comes to the number of jobs that allegedly would be lost. Moreover, the associations' methods for reaching their projections are in several respects opaque and in others clearly flawed. For example, they neglect to count the workers who will be needed to operate and maintain pollution control equipment and to implement work practices that reduce emissions.

Perhaps the most important observation to make about the two associations' claims, however, is that they pertain to a proposal, rather than to a final EPA action. For reasons stated earlier in this reply, the final standards will most assuredly differ from the proposed ones. The differences will demonstrate EPA's intent focus on making the regulatory subcategories appropriately reflect industrial variation in the real world, and on aligning the standards in each subcategory with the performance that real-world conditions prove are already achievable. The Clean Air Act does not place our need to increase employment in conflict with our need to protect public health. EPA's final standards will not either.

Again, thank you for your letter. If you have additional questions, please do not hesitate to contact me, or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', with a large, stylized loop at the end.

Lisa P. Jackson